

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

BOSS STAPLETON

PLAINTIFF

V.

NO. 4:13-CV-00139-DMB-DAS

**FAYE NOEL; RICHARD STEWARD;
CHRISTOPHER EPPS; EARNEST LEE;
MR. TURNER**

DEFENDANTS

**ORDER REGARDING REPORT AND RECOMMENDATION AND MOTION TO
DISMISS**

On July 29, 2013, Plaintiff Boss Stapleton filed a Prisoner's Complaint in this Court against Defendants Faye Noel, Richard Steward, Christopher Epps, Earnest Lee, and "Mr. Turner." Doc. #1. On December 9, 2013, Magistrate Judge Sanders issued a Report and Recommendation recommending dismissal of the claims brought against Defendants Epps and Lee. Doc. #13 at 2. Plaintiff acknowledged service of the Report and Recommendation on December 12, 2013. Doc. #16.

On December 16, 2013, Plaintiff filed a "Motion To have defendants Richmon Stewart; Christopher Epps; and Earnest Lee AND Larence Turner dismissed. . ." Doc. #14 at 1 (emphasis in original). In his motion, Plaintiff "recommend[s]" dismissal of Defendants Stewart, Epps, Lee, and Turner. *Id.* at 2.

Having considered the file and records in this action, the court finds that the Report and Recommendation of the United States Magistrate Judge was duly served by mail upon the *pro se* plaintiff at his last known address; that more than fourteen days have elapsed since service of the Report and Recommendation; and that no objection to the Report and Recommendation has been filed or served by any party. The Magistrate Judge recommended dismissing Defendants

Christopher Epps and Earnest Lee from the instant suit. That recommendation will be **APPROVED and ADOPTED** as the opinion of this Court. *See Gentry v. Wexford Health Sources, Inc.*, No. 3:09-cv-173, 2011 WL 3924834, at *3 (S.D. Miss. 2011) (adopting report and recommendation and denying voluntary motion to dismiss).

To the extent Defendants Epps and Lee have been dismissed from the suit, Plaintiff's motion for voluntary dismissal must be **DENIED as moot**. To the extent Plaintiff seeks voluntary dismissal of Defendants Steward and Turner, such relief is **GRANTED**.

It is **ORDERED**:

- (1) That the Report and Recommendation of the United States Magistrate Judge is hereby **APPROVED AND ADOPTED** as the opinion of the court.
- (2) That Plaintiff's motion to dismiss Defendants Christopher Epps, Earnest Lee, Richard Steward, and Lawrence Turner is **GRANTED in Part and DENIED in Part**.
- (3) That Defendants Christopher Epps and Earnest are **DISMISSED with prejudice** from this case.
- (4) That Defendants Steward and Turner are **DISMISSED without prejudice** from this case.
- (5) That the case will proceed as to the remaining defendant, Faye Noel.

SO ORDERED, this the 22nd day of May, 2014.

/s/ Debra M. Brown
UNITED STATES DISTRICT JUDGE